

107TH CONGRESS
1ST SESSION

H. R. 1859

To assure quality and best value with respect to Federal construction projects
by prohibiting the practice known as bid shopping.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2001

Mr. KANJORSKI (for himself, Mr. HORN, Mrs. MALONEY of New York, Mr. SANDERS, Mr. KUCINICH, Mr. HINCHEY, Mr. PALLONE, and Mr. ANDREWS) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To assure quality and best value with respect to Federal construction projects by prohibiting the practice known as bid shopping.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Construction Quality
5 Assurance Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Certain unfair and undesirable practices,
9 known as bid shopping, have arisen between contrac-

tors and subcontractors from time to time in construction work for the Federal Government.

(2) Bid shopping threatens the integrity of the competitive bid system, which well serves the construction industry and the economy.

(3) Bid shopping deprives taxpayers of the full benefits of fair competition among contractors and subcontractors, and often results in poor quality of material and workmanship to the detriment of the public.

(4) Because when bid shopping occurs the cost savings gained are not passed on to the Federal Government, while the simultaneous reduction in quality and value are passed on, the procurement practices of the Federal Government should be modified to prohibit bid shopping.

SEC. 3. DEFINITIONS.

In this Act:

(1) CONTRACT.—The term “contract” means any contract with the Federal Government, exceeding \$1,000,000 in amount, for the construction, alteration, or repair of any public building or public work of the United States.

(2) BID SHOPPING.—The term “bid shopping” means the practice of a contractor asking, requiring,

1 or otherwise pressuring a subcontractor to lower
2 bids for subcontracts, or accepting lower bids from
3 subcontractors, after submitting a bid without pass-
4 ing the savings from the lower bids back to the Fed-
5 eral Government.

6 (3) CONTRACTOR.—The term “contractor”
7 means an individual or entity that has been awarded
8 a contract by the Federal Government.

9 (4) SUBCONTRACTOR.—The term “subcon-
10 tractor” means an individual or entity with whom a
11 bidder on a contract proposes to enter into a sub-
12 contract for manufacturing, supplying, fabricating,
13 installing, or otherwise performing with respect to
14 the contract, whether the work is to be performed by
15 the subcontractor at the construction site or off the
16 site.

17 **SEC. 4. PROHIBITION AGAINST BID SHOPPING.**

18 (a) IN GENERAL.—No contractor or subcontractor
19 shall participate in the practice of bid shopping with re-
20 spect to a contract.

21 (b) NOTICE REQUIREMENT.—Any invitation to bid or
22 request for proposal issued by the Federal Government
23 with respect to a contract shall include a clause explicitly
24 prohibiting the practice of bid shopping and specifying the

1 penalties for violating the prohibition against bid shop-
2 ping.

3 **SEC. 5. PENALTIES.**

4 (a) IN GENERAL.—A contracting officer who becomes
5 aware of a violation of the prohibition described in section
6 4(a) shall exercise the option of—

7 (1) canceling the contract; or

8 (2) imposing liquidated damages, the amount of
9 which shall be 3 times the difference between the
10 subcontractor's final bid before the award of the
11 contract and the ultimate price of the subcontracted
12 work.

13 (b) GROUNDS FOR SUSPENSION OR DEBARMENT.—
14 The imposition of liquidated damages on a contractor with
15 respect to 2 contracts within a 5-year period shall be
16 deemed to be adequate evidence of the commission of an
17 offense indicating a lack of business integrity or business
18 honesty that seriously and directly affects the present re-
19 sponsibility of a Government contractor within the mean-
20 ing of part 9.4 of the Federal Acquisition Regulation (De-
21 barment, Suspension, and Eligibility) (49 CFR 9.4).

22 **SEC. 6. IMPLEMENTATION THROUGH THE FEDERAL ACQUI-**
23 **SITION REGULATION.**

24 The Federal Acquisition Regulation shall be modified
25 to provide appropriate solicitation provisions, contract

1 clauses, and investigatory procedures to implement this
2 Act.

3 **SEC. 7. EFFECTIVE DATE.**

4 This Act shall apply with respect to contracts award-
5 ed on or after the date of the beginning of the first fiscal
6 quarter beginning more than 90 days after the date of
7 the enactment of this Act.

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